

# LEGISLATIVE RESEARCH COMMISSION

---

## ADMINISTRATIVE RULES



REPORT TO THE  
1983 GENERAL ASSEMBLY  
OF NORTH CAROLINA

h



# LEGISLATIVE RESEARCH COMMISSION

---

## ADMINISTRATIVE RULES



REPORT TO THE  
1983 GENERAL ASSEMBLY  
OF NORTH CAROLINA

h

A LIMITED NUMBER OF COPIES OF THIS REPORT IS AVAILABLE  
FOR DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY.

ROOM 2126, 2226  
STATE LEGISLATIVE BUILDING  
RALEIGH, NC 27611  
TELEPHONE: (919) 733-7778

OR

ROOM 500  
LEGISLATIVE OFFICE BUILDING  
RALEIGH, NC 27611  
TELEPHONE: (919) 733-9390

STATE OF NORTH CAROLINA  
ADMINISTRATIVE RULES REVIEW COMMITTEE  
LEGISLATIVE RESEARCH COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH 27611

ATOR ROBERT B. JORDAN, III  
REPRESENTATIVE JAMES F. MORGAN  
CHAIRMEN

REPRESENTATIVE ANN C. BARNES  
REPRESENTATIVE WILLIAM E. CLARK  
REPRESENTATIVE MARTIN L. NESBITT, JR.  
REPRESENTATIVE KENNETH B. SPAULDING  
ATOR WILLIAM A. CREECH  
ATOR CECIL R. JENKINS, JR.  
ATOR CHARLES E. VICKERY  
ATOR ROBERT D. WARREN



January 12, 1983

STAFF:

TERRENCE D. SULLIVAN  
DIRECTOR OF RESEARCH

SUSAN H. FROST  
DENNIS W. BRYAN  
E. ANN CHRISTIAN  
STAFF ATTORNEYS

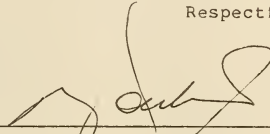
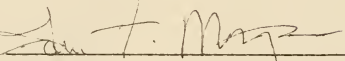
WENDY C. LAPISH  
RESEARCH ASSISTANT

SANDRA C. PARTIN  
PATSY E. VEREB  
COMPUTER OPERATORS

TO THE MEMBERS OF THE 1983 GENERAL ASSEMBLY:

The Administrative Rules Review Committee herewith  
submits its report.

Respectfully submitted,

  
\_\_\_\_\_  
Senator Robert B. Jordan, III  
\_\_\_\_\_  
Representative James F. Morgan



## TABLE OF CONTENTS

	Page
LETTER OF TRANSMITTAL . . . . .	i
COMMITTEE PROCEEDINGS . . . . .	1
APPENDICES	
A. Chapter 120 . . . . .	A-1
B. Legislative Research Commission Membership . . . . .	B-1
Membership of Administrative Rules Review Committee . .	B-1
C. Agency Report Form . . . . .	C-1
D. Table of Rules . . . . .	D-1
E. Rules Objected to by Committee . . . . .	E-1
F. Bills for Introduction in 1983 Session . . . . .	F-1





ADMINISTRATIVE RULES REVIEW COMMITTEE  
PROCEDURES

Article 6C of Chapter 120 of the General Statutes (G.S.) sets forth the statutory scheme underlying the legislative review of administrative rules. A copy of this Article together with certain sections of Chapter 150A (Administrative Procedure Act) is attached as Appendix A.

Administrative rules in North Carolina are reviewed by the legislative branch by the Legislative Research Commission's Administrative Rules Review Committee which is a permanent committee. The review began in October 1977 for a two-year trial period (Chapter 915 of the 1977 Session Laws). The 1979 General Assembly extended the life of the review process for an additional two years (Chapter 1030 of the 1979 Session Laws), and enlarged the membership of the Committee from seven to nine (Chapter 1314 of the 1979 Session Laws). The Committee membership was further enlarged to ten by the 1981 General Assembly (Chapter 688, 1981 Session Laws). The 1981 General Assembly rewrote Chapter 120 and gave the Committee additional powers to delay and suspend rules (Chapter 688 of the 1981 Session Laws); however, pursuant to the Attorney General's opinion that such powers are unconstitutional, the Committee ceased to delay rules and proposed legislation to delete such powers to the Second Session of the 1981 General Assembly. This

statutory change can be found in Chapter 1233 of the 1981 Session Laws (Regular Session, 1982).

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. (See Appendix B.)

The Committee's ten members are appointed by the cochairmen of the Legislative Research Commission from the General Assembly for two-year terms. The cochairmen of the Committee are elected by the Committee members (G.S. 120-30.26). The names of the present Committee members are listed in Appendix B.

The Committee must meet monthly (G.S. 120-30.27). The Committee is staffed from the Legislative Services Office. The Director of Research and three staff attorneys aid the Committee's work on a part-time basis. The Committee employs a research assistant and two computer operators.

G.S. 120-30.25 required the Attorney General to submit copies of all rules filed prior to October 1, 1977 to the Legislative Research Commission for review by the Committee. Rules filed after this date must be filed with the Director of Research prior to being filed with the Attorney General. No rule is effective until filed with the Attorney General (G.S. 150A-59; American Guar. and Liab. Ins. Co. v. Ingram, 32 N. C. App. 552 [1977]) and no rule can be filed with the Attorney General unless it bears a notation that it has been filed with the Director of Research (G.S. 150A-60).

G.S. 150A-58 defines rule for the purpose of filing requirements. A rule is every rule adopted by any agency but does not include rules relating only to internal management of any agency, directives or advisory opinions to any specific person or group with no statewide applicability, dispositions of any specific issue by adjudication, or rate or tariff orders. The definition of agency excludes the State judiciary and legislature, the Employment Security Commission, and political subdivisions of the State. The Industrial Commission, the Utilities Commission, and the Department of Transportation for purposes of traffic sign ordinances and road and bridge weight limits are exempted from filing with the Director of Research by G.S. 150A-60 and G.S. 120-30.24(1).

G.S. 120-30.25(c) describes the information contained in the Agency Report (see Appendix C) which is required to be filed with each rule. The report requires a brief summary of the rule, citation of the statutory authority for the rule, a statement of the circumstances requiring adoption, amendment, or repeal of the rule, and the effective date of the rule.

Rules filed with the Director are numbered in the order in which they are received. The rules are summarized. With the aid of the computer, the rule's catchline, citation, summary, date of filing, and date of expiration of the review period are entered into a log. The professional staff reviews the rules filed for content and statutory authority.

G.S. 120-30.28 requires the Director to submit the rules to the Committee which determines if the agencies had statutory authority to promulgate the rules. At its monthly meeting, the Committee reviews the log. Under the procedure now followed by

the Committee, if the Committee finds that an agency lacked statutory authority to promulgate a rule, it "objects" to that rule. The Director transmits the report of the objection and the reasons for it to the agency. A copy of the objection is sent to the Cochairmen of the Legislative Research Commission and the Attorney General. The Committee must review a rule no later than the last day of the first calendar month following the filing of the rule with the Director. In the case of rules for which the expiration period has expired, G.S. 120-30.35 allows the cochairmen of the Legislative Research Commission to call a public hearing on recommendation of the Committee or motion of any Commission member to review these rules. The statute sets a fifteen-day notice of hearing requirement. To date, the Commission has utilized this statute in one instance.

Following the monthly meeting, the staff sends letters of objection and of inquiry to the appropriate agencies pursuant to the Committee's direction. The Committee reports once a month to the Legislative Research Commission on the action taken on rules (G.S. 120-30.32).

An agency must amend a rule to which the Committee has objected or return it to the Committee without change within 30 days of notification of the objection (G.S. 120-30.28(c)). To cure a defect cited as reason for the Committee's objection, an agency may amend a rule without complying with the notice and hearing requirements of G.S. 150A-12. (See G.S. 120-30.28(d).)

Objections by the Committee to rules and any removals of objections are noted in the history note of the rule contained in the Administrative Code (12 NCAC 2G .0411). A rule's effectiveness is not affected by the administrative rules review

procedure. In the case of a rule to which the Committee has objected or in any other instance where the State's administrative practice and procedures require legislation, the Committee may submit a report to the next session of the General Assembly recommending appropriate legislation (G.S. 120-30.28(g)).

#### WORK

Through the November, 1982 meeting of the Committee, there have been 3,658 filings of rules. In the 62 months the Committee has been in existence, it has reviewed 20,370 rules. The table in Appendix D shows the number of rules reviewed by each year and month broken down into amendments, recodifications, adoptions, readoptions, repeals and emergency rules. The Committee has objected to 56 rules since it last reported to the General Assembly in May, 1982 (See Appendix E).

Pursuant to the authority contained in Article 6C of Chapter 120 of the General Statutes, the Legislative Research Commission's Administrative Rules Review Committee recommends the indicated legislative action on the following matters (See Appendix F):

#### Correction

Due to an inconsistency in Chapter 150A and related statutes dealing with the effective date and filing requirements which must be met by the Department of Correction, the Committee is introducing legislation which will amend G.S. 148-11 to state that rules governing the State prison system must be filed in

accordance with Article 5 of Chapter 150A. Temporary rules would be filed in accordance with G.S. 150A-13 but the Department would be allowed two working days after adoption of such rules to file them. A similar bill was introduced in the 1981 Session (Regular Session, 1982) but was not ratified.

G.S. 150A-1 is also amended to specify that Article 5 and G.S. 150A-13 apply to the Department and an unnecessary and inconsistent definition of agency is repealed.

### Insurance

The Committee objected to two rules filed by the Department of Insurance concerning Health Maintenance Organizations. (See "An Act to Amend the Powers of the Commissioner of Insurance to Regulate Health Maintenance Organizations".) A similar bill was introduced in the 1981 Session (Regular Session, 1982) but was not ratified.

Section 1 of the act allows the Commissioner to require of an applicant for a certificate of authority a three-year projection of initial operating results anticipated. This requirement has been imposed by 11 NCAC 14 .0303 to which the Committee has objected.

Section 2 allows the Commissioner to require a deposit of securities up to a maximum of \$25,000 as is presently required by 11 NCAC 14 .0307 to which the Committee also objected. The deposits shall be in the form of cash, securities, certificates of deposit, or surety bonds and interest shall be paid over to the applicant upon approval.

The Committee reviewed 12 NCAC 9C .0602 (Testing: Accuracy) which requires that speed measuring instruments be tested for accuracy by a technician possessing at least a valid second class radiotelephone license. This requirement is also cited in G.S. 8-50.2(c). The Committee noted that the FCC no longer issues first and second class licenses but rather general licenses. The Committee is recommending a bill to amend G.S. 8-50.2(c) accordingly. (See "An Act To Provide That A Technician With A General License Can Test Speed-Measuring Instruments.")

The Committee also reviewed 12 NCAC 7B .0712 (Certification of Firearms Trainers) and other rules referring to fees charged by the Private Protective Services Board. The Committee is recommending a bill which will consolidate these fees in one statutory section. (See "An Act To Clarify Fees Charged By The Private Protective Services Board.")

#### Natural Resources and Community Development

The Committee reviewed 15 NCAC 7J .0305 (Hearing Procedures [Burden of Proof]). This rule reflects the present G.S. 113A-122(b) (7) which puts the burden of proof at any CAMA hearing on the person who requested the hearing. The Committee is recommending a bill which will put the burden of proof on the agency or official whose decision to deny or grant a permit is the subject of the appeal. (See "An Act To Shift The Burden Of Proof In A Coastal Resources Commission Hearing.")

The Committee reviewed 15 NCAC 10 .0209 (Enforcement Jurisdiction of Special Officers) which permits special agents of the United States Fish and Wildlife Service to use powers to

enforce the State wildlife conservation laws and rules in accordance with G.S. 113-138.

The Committee requested an Attorney General's opinion concerning the constitutionality of this statute. The opinion did not clearly hold the statute to be constitutional. Therefore the Committee is recommending repeal of this statute. (See "An Act To Repeal The Power To Appoint Special Conservation Officers.")

#### Occupational Licensing Boards

The Committee reviewed 21 NCAC 54 .0701 (Prohibited Acts). The rule correctly states that 18-year-olds may be licensed in accordance with G.S. 93B-9. The Committee recommends a conforming amendment to G.S. 90-270.11. (See "An Act To Amend The Age Requirement For Psychologists To Conform With G.S. 93B-9.")

The Committee reviewed 21 NCAC 37 .0404 (Continuing Education Programs of Study) which is based on G.S. 90-280(q). The Committee noted that at present the statute sets no upper limit on the fee which may be charged by the Board for a continuing education course. The Committee recommends that a fee limit of \$250 be set. (See "An Act To Set Fee Limits For The Board Of Nursing Home Administrators.")

The Committee also reviewed 21 NCAC 32E .0007 (Fees) which contains a fee charged by the North Carolina Board of Medical Examiners for reactivation of an inactive application. The Committee noted that G.S. 90-6, the authorizing statute, does not refer to such a fee. The Committee recommends that the statute



be amended accordingly. (See "An Act To Amend The Authority To Set Fees For The Board Of Medical Examiners.")

#### Department of the Executive Branch

The Committee reviewed 10 NCAC 46 (Day Care) and other rules filed by various departments which cite G.S. 143B-10(j) as the statutory authority. The Committee requested an Attorney General's opinion concerning the use of this statute as general authority for rules. The opinion stated that "This section is designed to provide statutory authority for rules of management and administration(,) not program or substantive policy." The Committee recommends that G.S. 143B-10(j) be rewritten to reflect more clearly this interpretation. (See "An Act To Clarify The Authority Of Departmental Heads To Adopt Rules And Policies.")

#### Secretary of State

The Committee reviewed 21 NCAC 8K .0201 (Corporate Names) and noted that G.S. 55B-5 does not allow the use of "P.C." in a corporate name. The Committee recommends that the statute be amended to allow such a usage. (See "An Act To Allow 'P.C.' In A Corporate Name.")

The Committee also reviewed 18 NCAC 7 .0201 (Requirements for Initial Appointment) which requires an applicant for a notary public appointment complete a course. The Committee noted that G.S. 10-1 allows the Secretary of State very broad and general authority to appoint notaries but does not mention a course. The Committee recommends that the statute be amended to refer specifically to this course. (See "An Act Relating To The

Initial Appointment Of Notaries Public.")

## Transportation

The Committee reviewed 19A NCAC 2C .0105 (Property Owner Participation Paving) and .0108 (Acquisition of Right of Way for Secondary Roads) and noted that while these rules require that participating owners post bonds, the authorizing statute, G.S. 136-18, does not mention the imposition of bonds. The Committee recommends that the statute be amended to specify the imposition of bonds as being one of the Department's powers. (See "An Act To Authorize Property Owner Participation In The Costs of Road Maintenance, Improvements, Additions And Acquisition Of Right-Of-Way.")

CHAPTER 120. GENERAL ASSEMBLY

ARTICLE 6C.

Review of Administrative Rules.

"§ 120-30.24. Definitions.--As used in this Article:

- (1) 'Agency' means every agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the executive branch of State government, any provision of any other statute to the contrary notwithstanding. The provisions of this Article do not apply to agencies in the judicial branch of State government, agencies in the legislative branch of State government, the Industrial Commission, the Utilities Commission, the Employment Security Commission, counties, cities, towns, villages, other municipal corporations or political subdivisions of the State or any agencies of such subdivisions, county or city boards of education, the University of North Carolina, other local public districts, units, or bodies of any kind, or private corporations created by act of the General Assembly.
- (2) 'Commission' means the Legislative Research Commission.
- (3) 'Committee' means the Administrative Rules Review Committee created by G.S. 120-30.26.

(4) 'Director' means the Director of Research of the Legislative Services Commission.

(5) 'Rule' means every rule, regulation, ordinance, standard, and amendment thereto or repeal thereof adopted by any agency and includes rules and regulations regarding substantive matters, standards for products, and procedural rules for complying with statutory or regulatory authority or with requirements or executive orders of the Governor.

'Rule' does not include:

- a. Rules, procedures, or regulations that relate only to the internal management of an agency;
- b. Directives or advisory opinions to any specifically named person or group with no general applicability throughout the State;
- c. Disposition of any specific issue or matter by the process of adjudication;
- d. Orders establishing or fixing rates or tariffs;  
or
- e. Rules, by the Department of Transportation, relating to traffic sign ordinances, and road and bridge weight limits." (1977, c. 915, s. 1; 1979, c. 541, s. 3; 1981, c. 688, s. 1.)

"§ 120-30.25. Filing of rules.--(a) On October 1, 1977, the Attorney General shall transfer to the office of the Legislative Research Commission a copy of every rule that has been filed with him pursuant to Article 5 of General Statutes Chapter 150A.

Rules adopted prior to October 1, 1977, may be reviewed by the Committee.

(b) Rules adopted by an agency on or after October 1, 1977, shall be filed in the office of the Director prior to the filing made with the Attorney General pursuant to G.S. 150A-59.

(c) The rules filed with the Director pursuant to subsection (b) of this section shall be accompanied by a report on a form approved by the Administrative Rules Review Committee. This report shall contain:

- (1) A brief summary of the content of the rule if adopted or repealed, or a brief summary of the change in the rule if amended;
- (2) A citation of the enabling legislation purporting to authorize the adoption, amendment, or repeal of the rule;
- (3) A statement of the circumstances that required adoption, amendment, or repeal of the rule; and
- (4) A statement of the effective date of the rule.

(d) Executive orders of the Governor are required to be filed, but executive orders of the Governor are not subject to the provisions of G.S. 120-30.28 through G.S. 120-30.35." (1977, c. 915, s. 1; 1979, c. 571, s. 2; 1981 (Reg. Sess., 1982), c. 1233, s. 1.)

"§ 120-30.26. Administrative Rules Review Committee.--There is created a permanent committee of the Legislative Research Commission to be known as the Administrative Rules Review Committee. The Committee is composed of 10 members, five representatives appointed by the Commission cochairman from the House of Representatives, and five senators appointed by the

Commission cochairman from the Senate. On October 1, 1977, and biennially thereafter, the cochairmen of the Commission shall appoint the Committee members from the membership of the General Assembly. The members serve for terms of two years, or until they cease to be members of the General Assembly, whichever occurs first. The members so appointed shall elect two of their number to serve as cochairmen. Any vacancy that occurs in the membership of the Committee for any reason other than the expiration of a term shall be filled for the remainder of the unexpired term by appointment of a member of the General Assembly by the authority making the original appointment." (1977, c. 915, s. 1; 1979, c. 1030, s. 3; 1979, 2nd Sess., c. 1314, s. 1; 1981, c. 688, s. 4.)

"§ 120-30.27. Meetings of Committee.--The Committee shall meet at least monthly at times and places specified by the chairman. A quorum of the Committee consists of a cochairman and four other members of the Committee or a majority of the Committee, whichever is fewer. The members of the Committee shall be compensated for attending meetings as provided in G.S. 120-30.18. Professional, clerical or other employees required by the Committee shall be provided in accordance with G.S. 120-32." (1977, c. 915, s. 1; 1979, 2nd Sess., c. 1314, s. 2.)

"§ 120-30.28. Review of rules.--(a) After a rule is filed with the Director, he shall submit it to the Committee which may determine whether or not the agency acted within its statutory authority in promulgating the rule. The Committee shall review a rule submitted to it by the Director not later than the last day of the first calendar month following the filing of the rule with the Director.

The Committee, by a majority vote of the members present and voting, may extend the time for review of a rule by 60 days to obtain additional information on the rule.

(b) If the Committee finds that an agency did not act within its statutory authority in promulgating a rule or a part of the rule, the Committee shall object to the rule. The Director of Research shall transmit to the cochairmen of the Legislative Research Commission, the Attorney General, and the agency a written report of the objection to the rule and the reasons therefor.

(c) Within 30 days after receipt of the Committee's written report, an agency shall either amend or repeal the rule to cure the defects cited as reasons for the Committee's objection and delay or return the rule unamended to the Committee.

(d) To cure the defects cited as reasons for the Committee's objection, the agency may amend or repeal a rule without complying with the notice and hearing requirements contained in G.S. 150A-12. The curative rule is effective upon its filing with the Attorney General.

(e) The filing of an amendment to a rule places the entire rule before the Committee for its review.

(f) If an agency amends or repeals a rule to meet the Committee objection, the Committee shall transmit to the cochairmen of the Legislative Research Commission, the Attorney General, and the agency a written report removing its objection to the rule. If an agency does not amend or repeal a rule to cure the defects cited as reasons for the Committee's objection, the Committee, by a majority vote of the members present and voting, may remove its objection and shall transmit a written

report of such action to the cochairmen of the Legislative Research Commission, the Attorney General, and the agency. If the objection is not removed, the Committee shall transmit to the Governor and the cochairmen of the Legislative Research Commission a written report of the objection to the rule containing the reasons for the objection and the notation that the agency returned the rule unamended to the Committee or failed to return the rule within the time specified in subsection (c).

(g) The Committee or Commission may submit corrective legislation concerning a rule or its part to which the Committee has objected to the General Assembly if then in session or, if not in session, to it in the next regular session. The Committee or Commission may consider and recommend to the General Assembly any legislation it believes would improve administrative procedure and practices in this State. A bill submitted to the General Assembly under this subsection is eligible for consideration in that part of the regular session to which the bill is submitted." (1977, c. 915, s. 1; 1981, c. 688, s. 6; 1981 (Reg. Sess., 1982), c. 1233, 2. 2.)

"§ 120-30.29A. Actions on rules.--(a) The Committee may institute an action in the Superior Court of Wake County for a declaratory judgment on the issue of whether a rule to which the Committee has objected is valid or within the statutory authority of the agency.

The agency which promulgated the rule shall be notified of the commencement of the action by service of process pursuant to G.S. 1A-1, Rule 4. The Committee shall have standing to appear in any action authorized by this section or any appeals therefrom. Notwithstanding any other provision of law, the Committee may



direct any licensed attorney on the staff of the General Assembly or contract with other counsel to represent the Committee in the action.

In any action in which a rule is determinative of the outcome and in which the rule was objected to by the Committee, the agency must prove that the rule is valid as defined in G.S. 150A-2(9) and within the statutory authority of the agency; provided, however, that five years after the date of adoption of a rule, there is a presumption that the rule was filed in accordance with the procedures set forth in Chapter 150A.

The clerk of the superior court shall file a copy of the order of the court with the Attorney General. (1981, c. 688, s. 7; 1981 (Reg. Sess., 1982), c. 1233, s. 3.)

G.S. 120-30.30. Repealed by Session Laws 1981, Chapter 688.

G.S. 120-30.31. Repealed by Session Laws 1981, Chapter 688.

"§ 120-30.32. Reports of the Committee.--The Committee shall report monthly to the Commission on all actions taken on rules." (1977, c. 915, s. 1.)

G.S. 120-30.33. Repealed by Session Laws 1981, Chapter 688.

"§ 120-30.34. Temporary rules.--(a) Rules adopted in accordance with the procedures in G.S. 150A-13 shall be reviewed by the Committee and are subject to objection as provided in G.S. 120-30.28.

(b) The Committee shall review the reasons given for the adoption of a temporary rule and may object to the rule due to the agency's failure to make the finding required by G.S. 150A-

13. (1977, c. 915, s. 1; 1981, c. 1127, s. 55; 1981 (Reg. Sess., 1982), c. 1232, s. 2.)

"§ 120-30.35. Hearings.--(a) Notwithstanding the time limitation on review of rules contained in G.S. 120-30.28(a), the cochairmen of the Commission may at any time call a public hearing before the Committee on any rule or part of rule upon the recommendation of the Committee or upon the motion of any member of the Commission. Within 60 days after the public hearing, the Committee may find that the agency did not act within its statutory authority in promulgating the rule or its part and object to the rule in accordance with subsections b, c, d, e, f, and g of G.S. 120-30.28.

(b) At least 15 days before the hearing, notice of the hearing shall be given to the rule-making agency and to such other persons that desire to be heard, that the cochairmen of the Commission consider to be persons that may be affected by the rule, or that may request copies of the notice.

(c) The provisions of G.S. 120-19 and 120-19.1 through 120-19.4 shall apply to the proceedings of the Committee." (1977, c. 915, s. 1; 1981 (Reg. Sess., 1982), c. 1233, s. 4.)

"§ 120-30.36. Failure to object and delay; inadmissibility into evidence.--(a) The failure of the Committee to object to a rule or its part shall not be deemed to be approval of the statutory authority of the rule or its part by the Committee, Commission or the legislative branch.

(b) Evidence of the Committee's failure to object to the rule shall be inadmissible in all civil and criminal trials or other proceedings before courts, administrative agencies, or other tribunals." (1981, c. 688, s. 11; 1981 (Reg. Sess., 1982), c.

1233, s. 5.)

CHAPTER 150A. Administrative Procedure Act.

"§ 150A-1<sup>2</sup>. Temporary rules.--If an agency which is not exempted from the notice and hearing requirements of this Article by G.S. 150A-1 determines in writing that:

- (1) Adherence to the notice and hearing requirements of this Article would be contrary to the public interest; and that
- (2) The immediate adoption, amendment, or repeal of a rule is necessitated by:
  - a. The public health, safety, or welfare; or
  - b. The effective date of a recent act of the General Assembly or the United States Congress; or
  - c. A federal regulation; or
  - d. A court order,

the agency may adopt, amend, or repeal the rule without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practicable. The agency must accompany its rule filing with the Attorney General and the Legislative Research Commission's Administrative Rules Review Committee with the agency's written certification of the finding of need for the temporary rule, together with the reasons for that finding and a copy of the notice of hearing on the proposed permanent rule.

(b) If the Department of Transportation, Revenue, or Correction determines in writing that the immediate adoption, amendment, or repeal of a rule is necessitated by:

- (1) The public health, safety, or welfare; or

- (2) The effective date of a recent act of the General Assembly or the United States Congress; or
- (3) A federal regulation; or
- (4) A court order,

the agency may adopt, amend, or repeal the rule. The agency must accompany its rule filing with the Attorney General and the Legislative Research Commission's Administrative Rules Review Committee with the agency's written certification of the finding of need for the temporary rule together with the reasons for that finding. In the case of the Department of Correction, in addition to the reasons set forth in subdivisions (1) through (4) of this subsection, the Department may file a temporary rule when necessary for the management and control of persons under the custody or supervision of the Department in extraordinary circumstances as certified by the Secretary. The Department shall file any temporary rule within two working days of its adoption by the Secretary under G.S. 148-11.

(c) Rules filed under subsections (a) and (b) may be effective for a period of not longer than 120 days. An agency adopting a temporary rule shall begin normal rule-making procedures on the permanent rule under this Article at the same time the temporary rule is adopted." (1973, c. 1331, s. 1; 1981, c. 688, s. 12; 1981 (Reg. Sess., 1982), c. 1232, s. 1.)

"§ 150A-14. Adoption by reference.--An agency may adopt by reference in its rules, without publishing the adopted matter in full:

(1) All or any part of a code, standard, or regulation which has been adopted by any other agency of this State or any agency

of the United States or by a generally recognized organization or association; or

(2) Any plan or material which is adopted to meet the requirements of any agency of the United States and approved by that agency but which does not include any State policy or State rule as defined in G.S. 150A-10.

The reference shall fully identify the adopted matter by date and otherwise. The reference shall not cover any later amendments and editions of the adopted matter, but if the agency wishes to incorporate them in its rule, it shall amend the rule or promulgate a new rule therefor. The agency shall have available copies of the adopted matter for inspection and the rules shall state where copies of the adopted matter can be obtained and any charge therefor as of the time the rule is adopted." (1973, c. 1331, s. 1; 1975, 2nd Sess., c. 983, s. 64; 1981 (Reg. Sess., 1982), c. 1359, s. 5.)

"§ 150A-59. Filing of rules.--(a) Rules adopted by an agency on or after February 1, 1976, shall be filed with the Attorney General. No rule, except temporary rules adopted under the provisions of G.S. 150A-13, or curative rules adopted pursuant to G.S. 120-30.28, shall become effective earlier than the first day of the second calendar month after that filing.

(b) The acceptance for filing of a rule by the Attorney General, by his notation on the face thereof, shall constitute prima facie evidence of compliance with this Article.

(c) Rules previously in existence shall be ineffective after January 31, 1976, except that they shall immediately become effective upon filing in accordance with the provisions of this Article. The effectiveness of rules adopted prior to June 29,

1979, shall not be affected by the imposition of the filing requirement with the Director of Research under G.S. 150A-60(5)."  
(1973, c. 1331, s. 1; 1975, c. 69, ss. 1, 2, 5, 6; 1979, c. 571, s. 1; 1981 (Reg. Sess., 1982) c. 1233, s. 6.)

"§ 150A-60. Form of rules.--In order to be acceptable for filing, the rule must:

(1) Cite the statute or other authority pursuant to which the rule is adopted;

(2) Bear a certification by the agency of its adoption;

(3) Cite any prior rule or rules of the agency or its predecessor in authority which it rescinds, amends, supersedes, or supplements;

(4) Be in the physical form specified by the Attorney General;  
and

(5) Bear a notation by the Director of Research of the General Assembly that the rule has been filed in accordance with Article 6C of Chapter 120 of the General Statutes.

This subsection does not apply to rules adopted by the Industrial Commission, the Utilities Commission, or the Department of Transportation relating to traffic sign ordinances, and road and bridge weight limits." (1973, c. 1331, s. 1; 1979, c. 571, s. 1; 1981, c. 688, s. 14.)

"§ 150A-63. Publication of rules.--Reference copies of the compilation, supplements, and recom compilations shall be distributed by the Attorney General as soon after publication as practicable, without charge, to the following officials and departments in the following quantities:

(1) One copy to each county of the State, which may be maintained for public inspection in the county in a place

determined by the county commissioners; one copy each to the clerk of the Supreme Court of North Carolina and the clerk of the North Carolina Court of Appeals; one copy each to the libraries of the Supreme Court of North Carolina and the North Carolina Court of Appeals; one copy for the office of the Governor; and two copies to the Legislative Research Commission for the use of the General Assembly;

92) Five copies to the Division of State Library of the Department of Cultural Resources, pursuant to G.S. 147-50.1." (1981 (Reg. Sess., 1982) c. 1359, s. 6.)

"§ 150A-63.1. Administrative Rules Review Committee reports.-- The Attorney General shall retain any reports of the Legislative Research Commission's Administrative Rules Review Committee's objection to a rule. He shall append to any compilation, publication, or summation of that rule a notation that it has been objected to pursuant to Article 6C of Chapter 120 of the General Statutes and, where applicable, that the objection has been removed." (1981, c. 688, s. 15; 1981 (Reg. Sess., 1982), c. 1233, s. 7.)



APPENDIX B

LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

House Speaker Liston B. Ramsey  
CoChairman

Representative Chris S. Barker, Jr.

Representative John T. Church

Representative Gordon Greenwood

Representative John J. Hunt

Representative Lura S. Tally

Senate President Pro Tempore  
W. Craig Lawing, CoChairman

Senator Henson P. Barnes

Senator Carolyn Mathis

Senator William D. Mills

Senator Russell Walker

Senator Robert W. Wynne

MEMBERSHIP OF ADMINISTRATIVE RULES REVIEW COMMITTEE

1981-1982

Senator Robert B. Jordan, III, CoChairman

Representative James F. Morgan, CoChairman

Senator William A. Creech

Senator Cecil R. Jenkins, Jr.

Senator Charles E. Vickery

Senator Robert D. Warren

Representative Anne C. Barnes

Representative William E. Clark

Representative Martin L. Nesbitt

Representative Kenneth B. Spaulding



Administrative Research Commission  
Use Only

Filed in Accordance With  
Article 6C of Chapter 120  
N.C. General Statutes

(date)



State of North Carolina  
Department of Justice  
P. O. Box 629 - Raleigh, NC 27602

Rufus L. Edmisten  
Attorney General

Justice Department  
Use Only

RECEIVED

(date)

Administrative Procedures Section  
Attorney General's Office

## CERTIFICATION OF RULEMAKING

Filing Agency:

Rule (citation):

on:

☐

ADOPTION

☐

AMENDMENT

☐

REPEAL

Filing Date:

Statutory Authority:

Public Notice Date:

Public Hearing Date:

Public Hearing Not Required for This Action Under G. S. :

Summary (also indicate change in rule if amended):

Circumstances Requiring Rule Adoption, Amendment or Repeal:

Filing Date (no earlier than the 1st day of second calendar month following filing):

Coordinator or Agency Contact Signature

Officer Signature

Address

Typed Name

Phone

Title

'Certification of Rulemaking', with attachments, was received for filing, in the form specified by this office on:

(date)

Rufus L. Edmisten  
Attorney General



## APPENDIX D

LOG NO. &amp; DATE

NUMBER OF RULES

	Amend.	Recod.	Adopt.	Readopt	Repeal	Emerg.	TOTALS
# 1 - Nov. '77	42	3	35	0	1	0	81
# 2 - Dec. '77	40	0	26	5	5	0	76
1977 TOTALS	82	3	61	5	6	0	157

# 3 - Jan. '78	130	0	140	29	12	0	311
# 4 - Feb. '78	214	0	44	0	7	0	274
# 5 - March '78	136	0	71	2	10	0	220
# 6 - April '78	139	15	106	2	44	43	349
# 7 - May '78	58	0	31	7	7	5	108
# 8 - June '78	71	0	23	6	21	0	121
# 9 - July '78	80	0	222	5	30	0	337
# 10 - Aug. '78	301	0	90	739	20	6	1156
# 11 - Sept. '78	36	0	172	0	63	1	272
# 12 - Oct. '78	112	0	95	0	98	2	307
# 13 - Nov. '78	263	0	294	0	13	1	571
# 14 - Dec. '78	165	0	115	0	48	2	330
1978 TOTALS	1705	15	1403	800	373	60	4356

## LOG NO. &amp; DATE

	Amend.	Recod.	Adopt.	Readont	Reveal	Emerg.	TOTALS
#15 - Jan. '79	61	0	163	0	21	1	246
#16 - Feb. '79	78	0	22	0	18	0	118
#17 - March '79	117	0	46	0	18	1	192
#18 - April '79	76	0	93	5	32	0	206
#19 - May '79	176	0	73	17	7	0	273
#20 - June '79	223	0	196	38	62	0	519
#21 - July '79	169	0	82	0	78	1	330
#22 - Aug. '79	118	0	339	1	36	0	494
#23 - Sept. '79	127	0	126	1	18	0	272
#24 - Oct. '79	194	0	195	0	20	70	479
#25 - Nov. '79	98	0	108	0	16	11	233
#26 - Dec. '79	215	0	252	0	16	12	496
1979 TOTALS	1653	0	1695	62	342	96	3848

## LOG NO. &amp; DATE

	Amend.	Recod.	Adopt.	Readopt	Repeal	Emerg.	TOTALS
#27 - Jan. '80	140	2	360	0	15	1	518
#28 - Feb. '80	51	0	252	12	38	0	353
#29 - March '80	91	0	169	0	10	0	270
#30 - April '80	239	0	123	0	21	6	389
#31 - May '80	27	0	18	0	6	1	52
#32 - June '80	248	87	129	0	23	0	487
#33 - July '80	360	3	149	0	31	1	564
#34 - Aug. '80	118	1	55	0	8	1	183
#35 - Sept. '80	135	3	256	0	10	0	404
#36 - Oct. '80	120	0	230	0	14	2	366
#37 - Nov. '80	212	0	163	21	35	0	431
#38 - Dec. '80	144	0	165	87	63	5	464
1980 TOTALS	1905	96	2069	120	283	17	4490

FINAL TOTALS	5345	114	5228	987	1004	173	13851
--------------	------	-----	------	-----	------	-----	-------

LOG NO. & DATE	Amend.	Recod.	Adopt.	Readopt	Repeal	Emerg.	Temp.	TOTALS
9 - Jan. '81	33	0	17	0	7	0	0	57
10 - Feb. '81	50	1	95	0	23	4	0	173
11 - March '81	141	0	142	0	20	0	0	303
12 - April '81	126	0	195	0	59	2	0	382
13 - May '81	96	1	113	7	15	0	0	232
14 - June '81	76	0	81	0	25	1	0	183
15 - July '81	206	0	102	0	46	2	0	356
16 - Aug. '81	111	0	186	0	63	0	0	360
17 - Sept. '81	159	1	66	0	60	0	0	286
18 - Oct. '81	219	0	94	9	92	17	0	431
19 - Nov. '81	58	2	222	82	32	0	9	405
20 - Dec. '81	128	0	452	0	105	0	8	693

1981 TOTALS	1403	5	1765	98	547	26	17	3,861
-------------	------	---	------	----	-----	----	----	-------



LOG NO. & DATE	Amend.	Recod.	Adopt.	Readopt	Repeal	Emerg.	Temp.	TOTALS
51 - Jan. '82	227	0	115	0	58	0	15	415
52 - Feb. '82	59	0	111	0	28	0	3	201
53 - March '82	138	0	122	0	16	0	0	296
54 - April '82	30	0	49	0	8	0	10	97
55 - May '82	168	0	38	0	45	0	7	258
56 - June '82	200	0	335	22	50	0	4	611
57 - July '82	191	1	138	8	74	0	52	464
58 - Aug. '82	60	0	85	3	23	0	18	189
59 - Sept. '82	132	0	96	1	6	0	0	225
60 - Oct. '82	100	0	35	1	28	0	1	116
61 - Nov. '82	62	0	96	0	28	0	1	187
62 - Dec. '82	249	65	126	20	89	0	0	549

1982 TOTALS	1,636	65	1,337	55	453	0	111	3,653
-------------	-------	----	-------	----	-----	---	-----	-------

FINAL TOTALS	8,384	185	8,330	1,140	2,004	199	128	20,370
--------------	-------	-----	-------	-------	-------	-----	-----	--------



RULES SUBJECT TO REQUEST FOR ADDITIONAL INFORMATION  
AND/OR COMMITTEE ACTION

(Rules Formally Reviewed by the Administrative  
 Rules Review Committee and Filed  
 from October 1, 1981 -

- 20478- Eligible Applicants 1 NCAC 22 .0205  
 [Amend./Identifies applicants eligible to receive  
 Clean Water Bond Act funds.]  
 -Review-Filed/Comm.1st-8/31/82-20478  
 9/16/82 Committee objected to rule due to language in  
 rule implying that any suspension would make  
 a contractor permanently disqualified to bid on a  
 project. Committee also expressed concerns about  
 due process rights of suspended contractors.  
 11/18/82 Committee reviewed curative amendment; Review Completed.
- 20479- Applications 1 NCAC 22 .0207  
 [Amend./Describes the application process for Clean  
 Water Bond Act funds.]  
 -Review-Filed/Comm.1st-8/31/82-20479  
 9/16/82 Committee objected to rule because it cross-  
 references 22 .0205  
 11/18/82 Committee reviewed curative amendment; Review Completed.
- 19729- Definitions 10 NCAC 46B .0104  
 [Temp.Reg./Sets forth definitions used in day care  
 rate setting for allowable costs.]  
 -Review-Filed/Comm.1st-6/17/82-19729  
 7/15/82 Committee objected to rule due to failure to make  
 the finding required by G.S. 150A-13  
 8/10/82 Letter received from Dr. Morrow returning rule  
 unamended  
 8/24/82 Committee reviewed correspondence from agency.  
 Temporary rule expired on August 1 when permanent  
 rule went into effect. Objection not removed by  
 Committee. Rep. Barnes requested additional  
 info from DHR concerning effect of repealing  
 rule (see letter from Dr. Morrow). Info to be  
 provided at Sept. meeting  
 9/16/82 Committee discussed objectionable use of temporary  
 rule procedure with Linda Stott. Review Completed.
- 19730- Caregiving Staff 10 NCAC 46B .0201  
 [Temp.Reg./Identifies the number of staff allowed for  
 day care rate setting.]  
 -Review-Filed/Comm.1st-6/17/82-19730  
 7/15/82 Committee objected to rule due to failure to make  
 the finding required by G.S. 150A-13  
 8/10/82 Letter received from Dr. Morrow returning rule  
 unamended  
 8/24/82 Committee reviewed correspondence from agency.  
 Temporary rule expired on August 1 when permanent  
 rule went into effect. Objection not removed by

Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19731- Administrative Staff 10 NCAC 46B .0203

[Temp.Reg./Defines allowable administrative staff for day care rate setting.]

-Review-Filed/Comm.1st-6/17/82-19731

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19732- Auxiliary Staff 10 NCAC 46B .0204

[Temp.Reg./Defines allowable auxiliary staff for day care rate setting.]

-Review-Filed/Comm.1st-6/17/82-19732

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19733- Total Allowable Staff Costs 10 NCAC 46B .0206

[Temp.Reg./Defines allowable salary costs for day care rate setting.]

-Review-Filed/Comm.1st-6/17/82-19733

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19734- Terminology 10 NCAC 46C .0103  
[Temp.Reg./Defines terms used in day care rate setting.]

-Review-Filed/Comm.1st-6/17/82-19734

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19735- Rates: Vendor Purchase of Child Day Care and Transportation 10 NCAC 46C .0104  
[Temp.Reg./Identifies rates for vendor purchase of child day care and transportation.]

-Review-Filed/Comm.1st-6/17/82-19735

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19712- Special Needs Supplemental Rate 10 NCAC 46C .0105  
[Temp.Reg./Deals with the special needs supplemental rate for child day care.]

-Review-Filed/Comm.1st-6/17/82-19712

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19736- Categorization of Individual Programs 10 NCAC 46C .0201  
[Temp.Reg./Defines the rate categories used by public  
and private providers.]

-Review-Filed/Comm.1st-6/17/82-19736

7/15/82 Committee objected to rule due to failure to make  
the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule  
unamended

8/24/82 Committee reviewed correspondence from agency.  
Temporary rule expired on August 1 when permanent  
rule went into effect. Objection not removed by  
Committee. Rep. Barnes requested additional  
info from DHR concerning effect of repealing  
rule (see letter from Dr. Morrow). Info to be  
provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary  
rule procedure with Linda Stott. Review Completed.

19737- Private and Public Multi-Center 10 NCAC 46C .0202  
Operations

[Temp.Reg./Defines the rate categories used by public  
and private multi-center operations.]

-Review-Filed/Comm.1st-6/17/82-19737

7/15/82 Committee objected to rule due to failure to make  
the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule  
unamended

8/24/82 Committee reviewed correspondence from agency.  
Temporary rule expired on August 1 when permanent  
rule went into effect. Objection not removed by  
Committee. Rep. Barnes requested additional  
info from DHR concerning effect of repealing  
rule (see letter from Dr. Morrow). Info to be  
provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary  
rule procedure with Linda Stott. Review Completed.

19738- Description 10 NCAC 46C .0301  
[Temp.Reg./Describes category A programs.]

-Review-Filed/Comm.1st-6/17/82-19738

7/15/82 Committee objected to rule due to failure to make  
the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule  
unamended

8/24/82 Committee reviewed correspondence from agency.  
Temporary rule expired on August 1 when permanent  
rule went into effect. Objection not removed by  
Committee. Rep. Barnes requested additional  
info from DHR concerning effect of repealing  
rule (see letter from Dr. Morrow). Info to be  
provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary  
rule procedure with Linda Stott. Review Completed.

19740- Start-Up 10 NCAC 46C .0305  
[Temp.Reg./Describes the rate category A interim rate  
procedure.]

-Review-Filed/Comm.1st-6/17/82-19740

- 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting
- 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19741- Contracts

10 NCAC 46C .0307

[Temp.Reg./Identifies the process and limits on the numbers of subsidized spaces in centers.]

-Review-Filed/Comm.1st-6/17/82-19741

- 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting
- 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19742- Description

10 NCAC 46C .0401

[Temp.Reg./Describes rate category B programs.]

-Review-Filed/Comm.1st-6/17/82-19742

- 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting
- 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19743- Rate Setting

10 NCAC 46C .0403

[Temp.Reg./Defines the utilization rate for rate setting.]

-Review-Filed/Comm.1st-6/17/82-19743

- 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency.

Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19744- Contract Requirement 10 NCAC 46C .0405  
[Temp.Reg./Defines the limit of subsidized spaces in rate category B.]

-Review-Filed/Comm.1st-6/17/82-19744

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19745- Description 10 NCAC 46C .0501  
[Temp.Reg./Describes the public provider rate setting policy.]

-Review-Filed/Comm.1st-6/17/82-19745

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19710- Category C Programs 10 NCAC 46C .0502 through .0506

[Temp.Reg./Repeals rules setting forth the process for publicly operated programs.]

-Review-Filed/Comm.1st-6/17/82-19710

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional



info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19746- Nature and Purpose of Fund 10 NCAC 46D .0101

[Temp.Reg./Describes the nature and purpose of the State day care fund.]

-Review-Filed/Comm.1st-6/17/82-19746

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19747- Program Policies and Standards 10 NCAC 46D .0105

[Temp.Reg./Defines policies and standards for the fund.]

-Review-Filed/Comm.1st-6/17/82-19747

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19748- Division Responsibility 10 NCAC 46E .0101

[Temp.Reg./Sets forth the Office of Day Care Services responsibilities.]

-Review-Filed/Comm.1st-6/17/82-19748

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary

rule procedure with Linda Stott. Review Completed.

19749- Approval Standards: Definition 10 NCAC 46E .0102

[Temp.Reg./Defines approval standards.]

-Review-Filed/Comm.1st-6/17/82-19749

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19750- Consultants 10 NCAC 46E .0103

[Temp.Reg./Deals with the Office of Day Care Services.]

-Review-Filed/Comm.1st-6/17/82-19750

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19751- Need to Meet Requirements 10 NCAC 46E .0104

[Temp.Reg./Sets forth requirements in order to be approved.]

-Review-Filed/Comm.1st-6/17/82-19751

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19752- Address for Assistance 10 NCAC 46E .0105

[Temp.Reg./States that request for assistance may be addressed to the office.]

-Review-Filed/Comm.1st-6/17/82-19752  
 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13  
 8/10/82 Letter received from Dr. Morrow returning rule unamended  
 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting  
 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19753- Kinds of Approval 10 NCAC 46E .0106  
 [Temp.Reg./Identifies types of approval.]  
 -Review-Filed/Comm.1st-6/17/82-19753  
 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13  
 8/10/82 Letter received from Dr. Morrow returning rule unamended  
 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting  
 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19754- Maintaining Standards 10 NCAC 46E .0107  
 [Temp.Reg./Requires maintenance of standards.]  
 -Review-Filed/Comm.1st-6/17/82-19754  
 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13  
 8/10/82 Letter received from Dr. Morrow returning rule unamended  
 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting  
 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19711- Certification Standards 10 NCAC 46E .0201  
 through .0227  
 [Temp.Reg./Repeals rules dealing with certification of child day care centers.]  
 -Review-Filed/Comm.1st-6/17/82-19711  
 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13  
 8/10/82 Letter received from Dr. Morrow returning rule unamended

- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting
- 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19713- Administration: Operational Policies 10 NCAC 46E .0228  
 [Temp.Reg./Sets forth operational policies for child day care centers seeking subsidies with federal or State funds.]

- Review-Filed/Comm.1st-6/17/82-19713
- 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting
- 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19714- Administration: Personnel Policies 10 NCAC 46E .0229  
 [Temp.Reg./Sets forth personnel policy requirements for child care centers.]

- Review-Filed/Comm.1st-6/17/82-19714
- 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting
- 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19715- Administration: Record Keeping 10 NCAC 46E .0230  
 [Temp.Reg./Sets forth record keeping requirements for centers.]

- Review-Filed/Comm.1st-6/17/82-19715
- 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by

Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19716- Administration: Fiscal Management 10 NCAC 46E .0231  
[Temp.Reg./Sets forth fiscal management requirements for centers.]

-Review-Filed/Comm.1st-6/17/82-19716

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19717- Health 10 NCAC 46E .0232  
[Temp.Reg./Sets forth health requirements for centers.]

-Review-Filed/Comm.1st-6/17/82-19717

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19718- Physical Environment: Space 10 NCAC 46E .0233  
[Temp.Reg./Sets forth physical environment requirements for centers with regard to space.]

-Review-Filed/Comm.1st-6/17/82-19718

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19719- Physical Environment: Equipment 10 NCAC 46E .0234  
[Temp.Reg./Sets forth physical requirements for centers with regard to equipment.]

-Review-Filed/Comm.1st-6/17/82-19719

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19720- Nutrition 10 NCAC 46E .0235  
[Temp.Reg./Sets forth nutrition requirements for centers.]

-Review-Filed/Comm.1st-6/17/82-19720

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19721- Grouping and Staffing Ratios 10 NCAC 46E .0236  
[Temp.Reg./Sets forth grouping and staffing ratio requirements for centers.]

-Review-Filed/Comm.1st-6/17/82-19721

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19722- Staff Qualifications

10 NCAC 46E .0237



[Temp.Reg./Sets forth staff qualifications requirements for centers.]

-Review-Filed/Comm.1st-6/17/82-19722

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19723- Staff Training 10 NCAC 46E .0238

[Temp.Reg./Sets forth staff training requirements for centers.]

-Review-Filed/Comm.1st-6/17/82-19723

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19724- Caregiving Activities 10 NCAC 46E .0239

[Temp.Reg./Sets forth requirements for caregiving activities.]

-Review-Filed/Comm.1st-6/17/82-19724

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19725- Activity Areas and Equipment 10 NCAC 46E .0240

[Temp.Reg./Sets forth requirements for activity areas and equipment.]

-Review-Filed/Comm.1st-6/17/82-19725

7/15/82 Committee objected to rule due to failure to make

- the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting
- 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.
- 19726- Behavior Management 10 NCAC 46E .0241  
 [Temp.Reg./Requires a written policy on behavior management.]  
 -Review-Filed/Comm.1st-6/17/82-19726
- 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting
- 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.
- 19727- Transportation 10 NCAC 46E .0242  
 [Temp.Reg./Sets forth transportation requirements.]  
 -Review-Filed/Comm.1st-6/17/82-19727
- 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting
- 9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.
- 19728- Transportation Policies 10 NCAC 46E .0243  
 [Temp.Reg./Requires written policies on transportation of children.]  
 -Review-Filed/Comm.1st-6/17/82-19728
- 7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13
- 8/10/82 Letter received from Dr. Morrow returning rule unamended
- 8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent



rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19755- Application for Approval 10 NCAC 46E .0303  
[Temp.Reg./Deals with the application for approval.]

-Review-Filed/Comm.1st-6/17/82-19755

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

19756- Division Responsibility 10 NCAC 46G .0101

[Temp.Reg./Defines the responsibility of the county department of social services for the enforcement of individual child care arrangement standards.]

-Review-Filed/Comm.1st-6/17/82-19756

7/15/82 Committee objected to rule due to failure to make the finding required by G.S. 150A-13

8/10/82 Letter received from Dr. Morrow returning rule unamended

8/24/82 Committee reviewed correspondence from agency. Temporary rule expired on August 1 when permanent rule went into effect. Objection not removed by Committee. Rep. Barnes requested additional info from DHR concerning effect of repealing rule (see letter from Dr. Morrow). Info to be provided at Sept. meeting

9/16/82 Committee discussed objectionable use of temporary rule procedure with Linda Stott. Review Completed.

20095- Request for Contested Case Hearing 15 NCAC 1B .0204

[Amend./Deals with requests for a contested case hearing.]

-Review-Filed/Comm.1st-6/30/82-20095

7/15/82 Committee objected to rule due to lack of statutory authority for waiver of hearing

8/12/82 Agency returned rule unamended but changed statutory authority in history note

8/24/82 Bob Lehrer from NRCD addressed Committee concerning rule; Objection continued

10/21/82 Committee directed staff to prepare legislation amending rule to be considered at November meeting if Department has not amended rule by that time

11/18/82 Committee reviewed memo from agency suggesting

language to amend rule to comply with Committee's objection. Committee approved suggested change.

- 20093- Venue of Hearing 15 NCAC 1B .0210  
[Amend./Deals with the venue of hearing.]  
-Review-Filed/Comm.1st-6/30/82-20093  
7/15/82 Committee objected to rule due to lack of statutory authority for waiver of time limits  
8/12/82 Agency returned rule unamended  
8/24/82 Bob Lehrer from NRCB addressed Committee concerning rule and suggested that a curative rule clarifying the rule's intent could be filed to meet the Committee's objection; Objection continued  
10/21/82 Committee directed staff to prepare legislation amending rule to be considered at November meeting if Department has not amended rule by that time  
11/18/82 Committee reviewed memo from agency suggesting language to amend rule. Committee felt the suggested language did not comply with objection.
- 19899- Enforcement 15 NCAC 22A .0005  
[Adopt./Deals with violations of regulations.]  
-Review-Filed/Comm.1st-6/29/82-19899  
7/15/82 Committee objected to rule due to lack of statutory authority for criminal sanction  
8/23/82 Rule repealed; Review Completed
- 18918- Conditions of Permit 19A NCAC 2E .0604  
[Amend./Sets forth conditions of the permit.]  
-Review-Filed/Comm.1st-4/29/82-18918  
-Closed-Comm.Review Exp.-5/31/82  
5/13/82 Committee objection due to lack of statutory authority to set fee; agency to introduce legislation in June, 1982 Session to obtain such authority  
6/28/82 Rule repealed. Review Completed.
- 19708- Time Requirements 21 NCAC 8F .0401  
[Temp.Reg./Sets forth experience requirements in order to obtain a CPA license.]  
-Review-Filed/Comm.1st-6/17/82-19708  
7/15/82 Committee objected to rule for failure to make finding required by G.S. 150A-13  
7/27/82 Rule returned unamended  
8/24/82 Objection continued  
9/16/82 Committee reviewed permanent rule in September log. Temporary rule has expired. Review Completed.
- 19709- Annual Renewal of Certificates 21 NCAC 8J .0001  
[Amend./Sets forth requirements for annual renewal of certificates.]  
-Review-Filed/Comm.1st-6/17/82-19709  
7/15/82 Committee objected to rule due to lack of statutory authority under G.S. 12-3.1 to charge "reinstatement fee" for license  
7/27/82 Rule amended and filed; to be placed on August agenda  
8/24/82 Curative rule reviewed by Committee in August log; Objection removed

20166- Fees 21 NCAC 54 .1605  
[Adopt./Identifies fees charged by Board.]  
-Review-Filed/Comm.1st-7/12/82-20166  
8/24/82 Committee objected to rule due to lack of statutory  
authority for fee  
9/16/82 Committee reviewed correspondence from Board  
in which it agreed to amend rule to meet  
Committee's objection  
10/21/82 Committee reviewed curative rule;  
Review Completed

20168- Foreign Degree Application Policy 21 NCAC 54 .1702  
[Adopt./Identifies the foreign degree application  
policy.]  
-Review-Filed/Comm.1st-7/12/82-20168  
8/24/82 Committee objected to rule due to lack of statutory  
authority for fee  
9/16/82 Committee reviewed correspondence from Board  
in which it agreed to amend rule to meet  
Committee's objection  
10/21/82 Committee reviewed curative rule;  
Review Completed



SENATE DRS1-RF-DRAFT ONLY

Short Title: HMO's.

(Public)

Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED

AN ACT TO AMEND THE POWERS OF THE COMMISSIONER OF INSURANCE TO  
REGULATE HEALTH MAINTENANCE ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 57B-3(c) (9) is amended by rewriting the  
last line to read:

"capital as well as any other sources of funding. The three-  
year projection may be prepared by any person who is skilled in  
health maintenance organization financing. No additional  
requirements may be imposed with regard to the qualifications of  
the person

Sec. 2. G.S. 57B-4(a) (4) is amended by adding the  
following sentence at the end of the paragraph:

"The Commissioner may require such deposit up to a maximum of  
twenty-five thousand dollars (\$25,000) as he deems necessary for  
the protection of enrollees; provided, however, that the  
Commissioner shall allow such deposits to be in the form of cash,  
securities, or certificates of deposit or the applicant shall be  
permitted to post a surety bond in the specified amount. Any

interest accrued as a result of such deposit shall be paid over to the applicant upon accrual."

Sec. 3. This act is effective upon ratification. preparing this projection;".

SENATE DRS2-DRAFT ONLY

Short Title: Correction/Rules.

(Public)

Senator Jordan.

-----  
Referred to:  
-----

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEPARTMENT OF CORRECTION'S RULE-MAKING  
PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-11 is amended by rewriting the  
first sentence to read:

"The Secretary shall adopt rules for the government of the  
State prison system in accordance with the provisions of Article  
5 of Chapter 150A. In the case of temporary rules, such rules  
shall become effective immediately upon adoption by the Secretary  
and shall be filed in accordance with G.S. 150A-13 within two  
working days of adoption."

Sec. 2. G.S. 150A-1(a) is amended by rewriting the  
second sentence of the first paragraph to read:

"The following are specifically exempted from the provisions of  
this Chapter: the Employment Security Commission, the Industrial  
Commission, the Occupational Safety and Health Review Board, and  
the Utilities Commission. The Department of Correction is exempt  
from the provisions of this Chapter, except for Article 5 of this  
Chapter and G.S. 150A-13 which shall apply."

Sec. 3. G.S. 150A-58(c) is hereby repealed.

Sec. 4. This act shall become effective 60 days after ratification.



SENATE DRS3-RF-DRAFT ONLY

Short Title: Radar Technicians.

(Public)

Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A TECHNICIAN WITH A GENERAL LICENSE CAN  
TEST SPEED-MEASURING INSTRUMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-50.2(c) is amended by inserting the  
following language at the end of the second line: "or general".

Sec. 2. This act is effective upon ratification.

SENATE DRS4-RF-DRAFT ONLY

Short Title: Burden of Proof.

(Public)

Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED

AN ACT TO SHIFT THE BURDEN OF PROOF IN A COASTAL RESOURCES  
COMMISSION HEARING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-122(b) (7) is rewritten to read:

"The burden of proof at any hearing on appeal shall be upon the  
official or body whose decision to deny or grant a permit is the  
subject of the appeal."

Sec. 2. This act is effective upon ratification.

SENATE DRS5-RF-DRAFT ONLY

Short Title: Private Protective Services Fees. (Public)  
Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED  
AN ACT TO CLARIFY FEES CHARGED BY THE PRIVATE PROTECTIVE SERVICES  
BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74C-9(e) is amended by inserting the following between "license" and "in" in subdivision (4): "or duplicate license"; and further amended by deleting the period in subdivision (5) and inserting in lieu thereof a semicolon and by adding new subdivisions to read:

"(6) A new, renewal, replacement or reissuance fee for a registration identification card in an amount not to exceed thirty dollars (\$30.00);

(7) An application fee for an armed private security officer firearm registration permit not to exceed fifty dollars (\$50.00);

(8) A new, renewal, replacement, or reissuance fee for an armed private security officer firearm registration permit not to exceed thirty dollars (\$30.00);

(9) An application fee for certification as a firearms trainer not to exceed fifty dollars (\$50.00);

(10) A renewal or replacement fee for firearms trainer certification not to exceed twenty-five dollars (\$25.00);

(11) A new nonresident temporary permit fee not to exceed one hundred dollars (\$100.00)."

Sec. 2. G.S. 74C-11(d) is amended by deleting the last sentence of the paragraph.

Sec. 3. G.S. 74C-13 is amended by deleting the last sentences of subsections (c), (d) and (k).

Sec. 4. G.S. 74C-18(b) is amended by deleting the last sentence of the paragraph.

Sec. 5. This act is effective upon ratification.

SENATE DRS7-RF-DRAFT ONLY

Short Title: Special Conservation Officers. (Public)  
Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED  
AN ACT TO REPEAL THE POWER TO APPOINT SPECIAL CONSERVATION  
OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-38 is repealed.

Sec. 2. This act is effective upon ratification.

SENATE DRS8-RF-DRAFT ONLY

Short Title: Licensing/Psychologists.

(Public)

Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED

AN ACT TO AMEND THE AGE REQUIREMENT FOR PSYCHOLOGISTS TO CONFORM  
WITH G.S. 93B-9.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-270.11(a)(1)a. is amended by  
deleting "21" and inserting in lieu thereof "18".

Sec. 2. G.S. 90-270.11(b)(1)a. is amended by deleting  
"21" and inserting in lieu thereof "18".

Sec. 3. This act is effective upon ratification.

SENATE DRS9-RF-DRAFT ONLY

Short Title: Departmental Rules.

(Public)

Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE AUTHORITY OF DEPARTMENTAL HEADS TO ADOPT  
RULES AND POLICIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-10(j) is rewritten to read:

"(j) Departmental Rules and Policies. The head of each  
principal State department may adopt:

- (1) rules consistent with law for the custody, use, and  
preservation of any public records, as defined in  
G.S. 132-1, which pertain to department business;
- (2) rules, approved by the Governor, to govern the  
management of the department, which shall include  
the functions of planning, organizing, staffing,  
directing, coordinating, reporting, budgeting, and  
budget preparation which affect private rights or  
procedures available to the public;
- (3) policies, consistent with law and with rules  
established by the Governor and with rules of the  
State Personnel Commission, which reflect internal  
management procedures within the department. These

may include policies governing the conduct of employees of the department, the distribution and performance of business, and internal management procedures which do not affect private rights or procedures available to the public and which are listed in (e) of this section. However, such policies shall not be filed as rules pursuant to G.S. 150A-59.

Rules adopted under (1) and (2) of this subsection shall be subject to the provisions of Chapter 150A of the General Statutes.

This subsection shall not be construed as a legislative grant of authority to an agency to make and promulgate rules concerning any policies and procedures other than as set forth herein."

Sec. 2. G.S. 143B-10(f) is amended by rewriting the last two lines to read: "legal custody of all public records as defined in G.S. 132-1."

Sec. 3. Section 1 of this act shall become effective upon ratification with regard to any rules or policies made effective on or after that date and shall apply on October 1, 1984 to rules and policies made effective prior to ratification. Sections 2 and 3 of this act are effective upon ratification.



SENATE DRS10-RF-DRAFT ONLY

Short Title: Corporate Name.

(Public)

Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED

AN ACT TO ALLOW "P. C." IN A CORPORATE NAME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55B-5 is amended by rewriting the fifth line to read:

"words 'Professional Association', 'P. A.', 'Professional Corporation', or 'P. C.' in lieu of the corporate designations".

Sec. 2. This act is effective upon ratification.

SENATE DRS11-RF-DRAFT ONLY

Short Title: Nursing Home Administrator Fees.

(Public)

Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED

AN ACT TO SET FEE LIMITS FOR THE BOARD OF NURSING HOME  
ADMINISTRATORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-280(g) is amended by inserting the  
following language between "fees" and "for" in the first line:  
"not to exceed two hundred and fifty dollars (\$250.00)".

Sec. 2. This act is effective upon ratification.

Short Title: Notary Public Course.

(Public)

Senator Jordan.

-----  
Referred to: -----

A BILL TO BE ENTITLED

AN ACT RELATING TO THE INITIAL APPOINTMENT OF NOTARIES PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. G.S. 10-1 is amended by inserting a new third paragraph to read:

"The Secretary of State by regulation may require completion of an approved course of study prior to initial appointment as a notary public."

Sec. 2. This act is effective upon ratification.

SENATE DRS13-RF-DRAFT ONLY

Short Title: Medical Examiners' Fees.

(Public)

Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED

AN ACT TO AMEND THE AUTHORITY TO SET FEES FOR THE BOARD OF  
MEDICAL EXAMINERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-6 is amended by inserting a new  
second sentence in the second paragraph to read:

"The fee for reactivation of an inactive incomplete application  
shall be five dollars (\$5.00)."

Sec. 2. This act is effective upon ratification.

SENATE DRS14-RF

Short Title: Roads/Property Owner Participation. (Public)  
Senator Jordan.

-----  
Referred to:-----

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE PROPERTY OWNER PARTICIPATION IN THE COSTS OF  
ROAD MAINTENANCE, IMPROVEMENTS, ADDITIONS AND ACQUISITION OF  
RIGHT-OF-WAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18 is amended by the addition of a  
new subsection (27) which reads as follows:

"(27) The Department of Transportation is authorized to  
establish policies and promulgate rules providing for voluntary  
property owner participation in the costs of maintenance or  
improvement of roads which would not otherwise be performed by  
the Department of Transportation and which will result in a  
benefit to the property owner. By way of illustration and not as  
a limitation, such costs include those incurred in connection  
with drainage improvements or maintenance, driveway connections,  
dust control on unpaved roads, surfacing or paving of roads and  
the acquisition of rights-of-way. Property owner participation  
can be in the form of materials, money, or land (for right-of-  
way) as deemed appropriate by the Department of Transportation."

Sec. 2. This act is effective upon ratification.

